IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 32482 of 1997

Between:

M/s.Maharashtra Hybrid Seeds Co..Ktd,

Kallakal, Toopran Mandal, Medak Dist.,

Rep. by its Deputy General Manager

G.B. Kulkarni **..... PETITIONER**

AND

1 Govt. of Andhra Pradesh,

Rep. by its Commissioner, Land Records, Hyderabad.

2 The District Collector, Medak Dist., at Sagareddy.

3 The Mandal Revenue Officer, Toopran Mandal, Medak District.

4 The Revenue Divisional Officer, Siddipet, Medak District.

5 The Mandal Revenue Inspector, Toopran Mandal,

Medak District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or certiorari or any other appropriate writ, order or direction calling for the records relating to order dt.17-11-97 in proceedings No.E/3286/97 of the Revenue Divisional Officer, Siddipet the 4th respondent herein, confirming the order dated 3-4-97 in proceedings No.A/2652/95 of the Mandal Revenue Officer, Toopran, the 3rd respondent herein and the connected records and quash the same.

For the Petitioner: MR.K.VIJAYENDER REDDY

For the Respondents : SPL GP FOR TAXES

The Court Made the Following :

ORDER:(Per BRSR,J)

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India challenging the proceedings dated 17-11-1997 on the file of the Revenue Divisional Officer, Siddipet.

Admittedly, petitioner is the owner of the land admeasuring Acs.34-11 guntas situated at Kallakal village, Toopran Mandal, Medak District. The Mandal Revenue Officer, for the assessment years 1993-94 and 1994-95 levied assessment under the provisions of the A.P. Non Agricultural Lands Assessment Act, 1963, (for short 'the Act') for the entire extent of the land followed by Form – II notice issued by the Mandal Revenue Officer. The claim of the writ petitioner is that an extent of Acs.19-20 guntas of land, which is exclusively being used for agricultural purpose, is also included in the demand notice and assessment has been levied in illegal manner. The contention is that no

non-agricultural land assessment is liable to be paid by the petitioner in respect of Acs.19-20 guntas of land, which is exclusively being used for agricultural purpose.

The petitioner aggrieved by Form-II demand notice issued by the Mandal Revenue Officer, filed W.P. No.14706 of 1995 in this Court. This Court by order

dated 13-09-1996 quashed the impugned order and accordingly directed the Mandal Revenue Officer to conduct enquiry after due notice to the petitioner, and, if necessary, to make spot inspection of the land of the petitioner and determine as to how much of the land owned by the petitioner is being used for non agricultural purposes or set apart for use or kept for use for non agricultural purposes and how much of the land is in actual cultivation and decide the appeal in accordance with law.

The Revenue Divisional Officer being the revisional authority pursuant to the directions of this Court conducted a spot inspection. It was found that an area of Acs.34-11 guntas of land is registered in the name of the petitioner company of which Acs.14-31 guntas is occupied by the constructions consisting of seed processing units, seed preservation godown etc. The un-constructed area, which is under cultivation, is interspersed with the constructed area i.e., lying in between the constructions. Admittedly, in the balance extent the company is raising crops such as Maize, Sunflower and Paddy etc. The Revenue Divisional Officer, however, took the view that the agricultural operations being carried on by the petitioner is for the seed production commercially and therefore the entire land including the land where the agricultural operations being carried on is also liable for assessment under the provisions of the Act. Aggrieved by the same, the present writ petition has been filed by the petitioner.

The matter that arises for consideration is not *res integra* but squarely covered by the authoritative pronouncement of the Supreme court in **The Federation of Andhra Pradesh chambers of Commerce & Industry & Others v. State of Andhra Pradesh & Others.** The Apex Court having interpreted Section 3 of the Act held “that it is only land which is actually in use for an industrial purpose as defined in the Act that can be assessed to non agricultural assessment at the rate specified for the land used for industrial purposes.” The Supreme Court accordingly reversed the judgment rendered by this Court in **S.V. Cement Ltd. Vs. Revenue Divisional Officer, Nandyal & Others** wherein it was held: “The word “used” means not only “actually used”, but it also means any land meant to be used or set apart

for being used. The definitions of “industrial purpose” and “commercial purpose” also lend support to the wide meaning given to the word “used”. “Industrial purpose” means any purpose connected with industrial undertaking. Likewise, “commercial purpose” means the purpose connected with the undertaking in trade, commerce or business. The definitions do not say that the non-agricultural land should be actually utilised for an industrial or commercial activity, but it is enough if the land is kept for use for a purpose connected with industrial or commercial undertaking.”

The order of the Revenue Divisional Officer is based upon the Full Bench judgment of this Court in **S.V. Cement Limited’s case** (2 Supra)**.** The Revenue Divisional Officer in his order observed that the remaining land where agricultural operations are carried on is also used for seed production commercially. It is on that ground, the Revenue Divisional Officer came to the conclusion that whole of the land is liable to be assessed under the provisions of the Act.

In Voltas Limited v. Chemicals Plant, Joint Director, the Supreme Court after referring to **The Federation of Andhra Pradesh Chambers of Commerce & Industry’s case** (1 Supra) held that levy of non agricultural assessment can be only in respect of such lands which are actually being used for non agricultural purpose and not other lands which are appertaining and surrounding the lands, which are actually used for non agricultural purposes. Obviously, the lands, which are used exclusively for agricultural purposes are not liable to be assessed under the provisions of the Act.

In such view of the matter, the impugned order of the Revenue Divisional Officer is set aside. The non-agricultural land assessment under the provisions of the Act can be levied only in respect of Acs.14-31 guntas of land and not on the whole of the extent. The respondents are entitled to collect the assessment and the arrears, if any, from the petitioner for the land admeasuring Acs.14-31 guntas only. The assessment as well as the arrears in this regard shall be deposited by the petitioner within a period of three months from today failing

which it shall be open to the respondents to proceed further in the matter and realise the same from the petitioner.

Accordingly the Writ Petition is allowed. No order as to costs.

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B. SUDERSHAN REDDY, J

Date:24-08-2004

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K.C. BHANU, J

PV

Assistant Registrar

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Twenty Fourth Day of August, Two thousand and Four.

To

1 The Commissioner, Land Records,

Govt. of Andhra Pradesh, Hyderabad.

2 The District Collector, Medak Dist., at Sagareddy.

3 The Mandal Revenue Officer, Toopran Mandal, Medak District.

4 The Revenue Divisional Officer, Siddipet, Medak District.

5 The Mandal Revenue Inspector, Toopran Mandal,

Medak District.

6 Two C.D. copies to the Special G.P. for Taxes,

High Court of A.P., Hyderabad(O.U.T.).

7. Two C.Cs.